

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

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U.S. VENTURE, INC.,  
a Wisconsin Corporation,

Plaintiff,

Case No.

v.

JURY DEMANDED

ZEUS AUTO FORCE, INC.,  
an Illinois Corporation,

Defendant.

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**COMPLAINT**

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Plaintiff U.S. Venture, Inc. ("U.S. Venture"), for a complaint against defendant Zeus Auto Force, Inc. ("Zeus Auto Force"), alleges as follows:

**THE PARTIES**

1. U.S. Venture is a Wisconsin corporation with a principal place of business at 425 Better Way, Appleton, Wisconsin 54915.
2. U.S. Venture is in the business of wholesale distribution of automobile and truck parts. U.S. Venture also sells automobile and truck exhaust pipes, lubricants, fluids, solvents, and greases.
3. Upon information and belief Zeus Auto Force is an Illinois corporation with a place of business at 8200 S. Hoyne Avenue, Chicago, Illinois, 60620.
4. Upon information and belief Zeus Auto Force is in the business of selling automotive parts including exhaust systems, brakes, suspensions, ride control, ignition and emission parts.

### **JURISDICTION & VENUE**

5. This is an action for trademark infringement under the trademark laws of the United States, 15 U.S.C. §§ 1114, et seq. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331 and 1338.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391 because the defendant resides in this district and because a substantial part of the events giving rise to U.S. Venture's claims occurred in this district

### **FACTS**

7. U.S. Venture owns Federal Registration No. 3,584,340 for a U.S. AUTOFORCE & design trademark ("U.S. AUTOFORCE Mark") shown below:



Federal Registration Number 3,584,340 was registered on March 3, 2009 for use on the goods and services listed in the registration, a true and correct copy of which is which attached as Exhibit 1. The first use of the U.S. AutoForce Mark was February 16, 2008 and the first use in commerce of the U.S. AutoForce Mark was May 12, 2008. *See* Ex. 1.

8. At all times material hereto, U.S. Venture's Federal Registration Number 3,584,340 has been, and continues to be, valid and subsisting.

9. Since U.S. Venture began using the U.S. AutoForce Mark in commerce on May 12, 2008, U.S. Venture has continuously and extensively used the U.S. AutoForce Mark across the United States in connection with distribution of its goods and services.

10. U.S. Venture has invested substantial amounts of time and effort in advertising and promotion to develop the widespread goodwill associated with its U.S. AUTOFORCE Mark.

11. The U.S. AUTOFORCE Mark and associated trade names are recognized by consumers as representing U.S. Venture's high-quality goods and services.

12. Upon information and belief Zeus Auto Force is currently selling automotive parts under the mark ZEUS AUTO FORCE.

13. The ZEUS AUTO FORCE Mark confusingly similar to the U.S. AUTOFORCE Mark.

14. On August 16, 2013 U.S. Venture's attorneys sent a cease and desist letter to Zeus Auto Force informing Zeus Auto Force of the U.S. AUTOFORCE Mark and demanding that Zeus Auto Force cease and desist from using the ZEUS AUTO FORCE Mark and change its company name, logo, website and advertising. *See* Declaration of Melissa S. Hockersmith, attached hereto as Exhibit 2, ¶3 and Exhibit A.

15. Between August 2013 and December 2013 U.S. Venture's attorney corresponded with Zeus Auto Force's attorney regarding the infringement of the U.S. AUTOFORCE Mark. *See* Ex. 2, ¶3-6.

16. On December 4, 2013 U.S. Venture's attorney sent a letter to Zeus Auto Force's attorney demanding that Zeus Auto Force confirm by December 19, 2013 that it would cease and desist use of the words "AUTO FORCE" in its company name, logo, website and advertisement of services. *See* Ex. 2, ¶6 and Exhibit D.

17. Neither Zeus Auto Force nor its attorneys responded to the December 4, 2013 letter. *See* Ex. 2, ¶7.

18. Upon information and belief Zeus Auto Force continues to use the infringing ZEUS AUTO FORCE Mark.

19. Zeus Auto Force's use of the ZEUS AUTO FORCE Mark has caused actual consumer confusion.

**Claim 1- Trademark Infringement under 15 U.S.C. § 1114**

20. U.S. Venture realleges and incorporates by reference paragraphs 1-19 of the Complaint.

21. Zeus Auto Force's use of the ZEUS AUTO FORCE Mark is likely to cause confusion, mistake or deceive an appreciable number of ordinary buyers as to the source of or association of those goods with U.S. Venture.

22. Upon information and belief, Zeus Auto Force had or should have had actual knowledge of U.S. Venture, and U.S. Venture's usage and ownership of the U.S. AUTOFORCE Mark.

23. Zeus Auto Force's conduct has been and continues to be willful.

24. Zeus Auto Force's conduct constitutes trademark infringement in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

25. By reason of the foregoing acts of Zeus Auto Force, U.S. Venture has sustained and, unless such acts are enjoined, will continue to sustain substantial injury and damage.

26. Zeus Auto Force's acts have caused U.S. Venture irreparable harm and, unless enjoined, will continue to cause U.S. Venture continuing irreparable harm.

27. U.S. Venture has no adequate remedy at law.

**Claim 2- False Designation of Origin under 15 U.S.C. § 1125(a))**

28. U.S. Venture realleges and incorporates by reference paragraphs 1-27 of the Complaint.

29. Zeus Auto Force's use of the ZEUS AUTO FORCE mark which is confusingly similar to U.S. Venture's U.S. AUTOFORCE Mark for both related and/or identical goods (e.g. automobile parts and accessories) is likely to cause confusion, or to cause mistake, or to deceive an appreciable number of ordinary buyers as to the source of or association of those goods with U.S. Venture.

30. Zeus Auto Force continues to use the ZEUS AUTO FORCE mark in connection with their goods.

31. The foregoing acts of Zeus Auto Force constitutes unfair competition and false designation of origin in violation of Section 43 of the Lanham Act, 15 U.S.C. § 1125(a).

32. By reason of the foregoing acts of Zeus Auto Force, U.S. Venture has sustained and, unless such acts are enjoined, will continue to sustain substantial injury and damage. Zeus Auto Force's acts, unless enjoined, will cause U.S. Venture continuing irreparable harm.

33. U.S. Venture has no adequate remedy at law.

### **PRAYER FOR RELIEF**

WHEREFORE, U.S. Venture prays for judgment in its favor and against Zeus Auto Force with respect to all of the foregoing Counts as follows:

- A. Enjoining Zeus Auto Force, its servants, agents and employees, and all other persons in active concert or participation with Zeus Auto Force, and their successors and assigns, from directly or indirectly:
- (1) using any of U.S. Venture's marks or names including the U.S. AUTOFORCE Mark or any colorable imitation of the U.S. AUTOFORCE Mark, including the ZEUS AUTO FORCE Mark, in advertising (including signage and on the Internet) or promotions;
  - (2) expressly or impliedly representing themselves to customers, potential customers, suppliers, potential suppliers or the public to be affiliated in any way with U.S. Venture;
  - (3) representing by words or conduct that any product or service provided, offered for sale, sold, advertised, or rendered by Zeus Auto Force is supplied, authorized, sponsored, or endorsed by or otherwise connected to U.S. Venture;
  - (4) otherwise infringing the U.S. AUTOFORCE Mark; or

- (5) competing unfairly with U.S. Venture in any manner by improperly using the U.S. AUTOFORCE Mark, or any mark that is likely to cause confusion with the U.S. AUTOFORCE Mark.
- B. Ordering Zeus Auto Force to deliver up for destruction all labels, signs, prints, insignia, letterhead, brochures, business cards, invoices and any other written or recorded material or advertisements in its possession or control containing the U.S. AUTOFORCE Mark, or any colorable imitation of the U.S. AUTOFORCE Mark, including the ZEUS AUTO FORCE Mark;
- C. Ordering Zeus Auto Force to file with this Court and serve on U.S. Venture within thirty (30) days from the date of entry of any restraining order and/or injunction, a report in writing, under oath, setting forth in detail the manner and form in which Zeus Auto Force has complied with the terms of the injunction;
- D. Ordering Zeus Auto Force to pay U.S. Venture: (1) all profits, gains and advantages obtained from Zeus Auto Force's unlawful conduct, including lost profits and corrective advertising damages in an amount to be determined at trial; (2) all monetary damages sustained and to be sustained by U.S. Venture as a consequence of Zeus Auto Force's unlawful conduct, including lost profits, in an amount to be determined at trial; and (3) U.S. Venture's costs and disbursements of this action, including reasonable attorneys' fees; or, at U.S. Venture's election, all available statutory damages, of which nothing plead herein shall constitute an election of remedies.
- E. Finding Zeus Auto Force's actions to have been willful, and therefore order that Zeus Auto Force's profits or U.S. Venture's damages (whichever is greater) be trebled as provided under 15 U.S.C. § 1117(b).
- F. Awarding interest on the above damages awards, including prejudgment interest.
- I. Assessing court costs against Zeus Auto Force; and

J. Awarding such other relief as this Court may deem just and proper.

Respectfully submitted,

Date: 1 April 2014

RYAN KROMHOLZ & MANION, S.C.

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